

Order

Michigan Supreme Court
Lansing, Michigan

March 9, 2018

Stephen J. Markman,
Chief Justice

156787

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder
Elizabeth T. Clement,
Justices

DANIEL D. FOSTER,
Plaintiff-Appellee,

v

SC: 156787
COA: 337783
MCAC: 13-000091

MICHIGAN BELL TELEPHONE COMPANY,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the October 12, 2017 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

MARKMAN, C.J., states as follows:

I agree with defendant that the magistrate here erred by analyzing plaintiff's claim under the standard from *Rakestraw v Gen Dynamics Land Sys Inc*, 469 Mich 220 (2003), rather than under the "significant manner" standard from MCL 418.301(2). Because defendant's spondylosis constituted a "condition[] of the aging process," he was required to show not only that there was a pathological change in his condition, but also that his employment "contributed to or aggravated or accelerated" the condition in a "*significant manner*." MCL 418.301(2) (emphasis added). However, for the reasons stated in the concurring statement in the Michigan Compensation Appellate Commission, I believe that the magistrate for all effective purposes made the necessary findings to support the conclusion that plaintiff's preexisting condition of the aging process was aggravated in a "significant manner" by his workplace fall. Accordingly, I concur in this Court's order denying leave to appeal.



t0306

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 9, 2018

Clerk